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RICHARD H. WEAING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

1 WILLIAM R. TAMAYO, #084965 (CA)
 2 JONATHAN T. PECK, #12303 (VA)
 3 SANYA HILL MAXION - #18739(WA)
 EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
 3 San Francisco District Office
 4 350 The Embarcadero, Suite 500
 5 San Francisco, California 94105
 Telephone: (415) 625-5650
 Facsimile : (415) 625-5657

6 Attorneys for Plaintiff

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8 **UNITED STATES DISTRICT COURT**

9 **NORTHERN DISTRICT OF CALIFORNIA**

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11 EQUAL EMPLOYMENT OPPORTUNITY)
 12 COMMISSION,)
 13 Plaintiff,)
 14 v.)
 15)
 16 ROBERT G. APTEKAR, M.D., INC.,)
 17 d/b/a ARTHRITIS AND ORTHOPEDIC)
 MEDICAL CLINIC,)
 18 Defendant.)
 19

CIVIL ACTION NO.
C 06 PVT 4808
COMPLAINT
 Civil Rights - Employment Discrimination

JURY TRIAL DEMAND

NATURE OF THE ACTION

20 This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil
 21 Rights Act of 1991 to correct unlawful employment practices on the basis of race and retaliation
 22 and to provide appropriate relief to Charging Party Tomeika L. Broussard, who was adversely
 23 affected by such practices. The Commission alleges that the defendant, Robert G. Aptekar,
 24 M.D., Inc., d/b/a Arthritis & Orthopedic Medical Clinic ("AMOC" or "Defendant Employer")
 25 discriminated against Ms. Broussard by subjecting her to a racially hostile work environment
 26 based on racially discriminatory practices unlawful by Title VII. In addition AMOC retaliated
 27

1 against Ms. Broussard by ultimately discharging her from employment due to previous
2 harassment complaints.

3 **JURISDICTION AND VENUE**

4 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§451, 1331, 1337,
5 1343, and 1345. This action is authorized and instituted pursuant to Sections 706(f)(1) and (3) of
6 Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§2000e-5(f)(1) and (3) ("Title
7 VII") and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. 198a.

8 2. The employment practices alleged to be unlawful were committed in the City of
9 Los Gatos, County of Santa Clara, California, which is within the jurisdiction of the United
10 States District Court for the Northern District of California (San Jose division).

11 **PARTIES**

12 3. Plaintiff, the Equal Employment Opportunity Commission ("EEOC"), is the
13 agency of the United States of America charged with the administration, interpretation, and
14 enforcement of Title VII and is expressly authorized to bring this action by Sections 706(f)(1) and
15 (3) of Title VII, 42 U.S.C. §§2000e-5 (1) and (3).

16 4. At all relevant times, Defendant Employer Clinic has
17 continuously been doing business in the State of California and in the City of Los Gatos, County
18 of Santa Clara, California, and has continuously employed at least fifteen employees.

19 5. At all relevant times, Defendant Employer has continuously been an employer
20 engaged in an industry affecting commerce within the meaning of Section 701(b), (g), and (h) of
21 Title VII, 42 U.S.C. §2000e-(b), (g), and (h).

22 **STATEMENT OF CLAIMS**

23 6. More than thirty days prior to the institution of this lawsuit, Tomeika L. Broussard
24 filed a Charge of Discrimination with the EEOC alleging violations of Title VII by Defendant
25 Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

26 ////

7. Since at least June 2003, Defendant Employer has engaged in unlawful employment practices at its clinic located in Los Gatos, California, in violation of Section 703(a)(1) and Section 704(a) of Title VII, 42 U.S.C. §§2000e-3(a) and 2000e3(a). These practices include subjecting Ms. Broussard to racial harassment and to an offensive, abusive, intimidating, and hostile work environment. The practices also include retaliating against and discharging Ms. Broussard for complaining about the harassment made unlawful by Title VII.

8. The effect of the practices complained of above has been to deprive Ms. Broussard of equal employment opportunities and to otherwise adversely affect her employment status as an employee because of her race.

9. The unlawful employment practices complained of above were intentional.

10. The unlawful employment practices complained of above were and are done with malice and/or reckless indifference to the federally protected rights of Ms. Broussard.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Employer, its officers, successors, assigns, and all persons in active concert or participation with it, from engaging in racial discrimination and another other employment practices which discriminates on the basis of race.

B. Order Defendant Employer to institute and carry out policies, practices, and programs which provide equal employment opportunities for their black employees and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Employer to make whole Ms. Broussard by providing appropriate compensation for past and future pecuniary losses resulting from the unlawful employment practices described above, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices.

D. Order Defendant Employer to make whole Ms. Broussard by providing

compensation for past and future non-pecuniary losses cause by the above unlawful conduct described above, including pain and suffering, emotional distress, indignity, loss of enjoyment of life, loss of self-esteem, and humiliation, in amounts to be determined at trial.

E. Order Defendant Employer to pay Ms. Broussard punitive damages for its malicious and reckless conduct described above, in amounts to be determined at trial.

F. Grant such further relief as the Court deems necessary and proper in the public interest.

G. Award the Commission its costs of this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of facts by its complaints.

Respectfully submitted,

JAMES L. LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
1801 L Street, N.W.
Washington, D.C. 20507

Dated: 8/8/06

WILLIAM R. TAMAYO
Regional Attorney

Dated: 8/8/06

JONATHAN T. PECK
Supervisory Trial Attorney

1
2 Dated: August 8, 2006

3 Sanya Hill Maxion
4 SANYA HILL MAXION
5 Senior Trial Attorney

6 EQUAL EMPLOYMENT OPPORTUNITY
7 COMMISSION
8 San Francisco District Office
9 350 The Embarcadero, Suite 500
10 San Francisco, CA 94105
11 Telephone: (415) 625-5650